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UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

DIMITRITZA TOROMANOVA, an  
Individual,

Plaintiff,

vs.

WELLS FARGO BANK, N.A.; WACHOVIA  
MORTGAGE, FSB; WORLD SAVINGS  
BANK, FSB; NATIONAL CITY  
MORTGAGE; NATIONAL DEFAULT  
SERVICING CORP; GOLDEN WEST  
SAVINGS ASSOCIATION SERVICE CO.;  
and DOES 1-10, inclusive,

Defendants.

Case No.: 2:12-cv-00328-GMN-(CWH)

**MOTION TO EXPUNGE LIS  
PENDENS AND ORDER**

Defendant Wachovia Mortgage, a division of Wells Fargo Bank, N.A., formerly known as Wachovia Mortgage, FSB (“Wells Fargo”) moves this court for an order expunging the *lis pendens* the plaintiff, Dimitritza Toromanova (“Toromanova”), recorded with the Clark County Recorder as Instrument No. 201202100002038 on February 10, 2012 in connection with this action. Wells Fargo bases this motion on the following memorandum of points and authorities, the papers on file with this Court, including the Complaint, any documents incorporated by reference or attached to the Complaint, recorded documents which the Court may take judicial

notice of, and any oral argument that this Court may entertain.

DATED this 3rd day of April 2013.

DAVID J. MERRILL, P.C.

By: 

DAVID J. MERRILL  
MORGAN F. SHAH  
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Attorneys for Wells Fargo Bank, N.A.

### **MEMORANDUM OF POINTS AND AUTHORITIES**

Toromanova commenced this action by filing a Complaint in the Eighth Judicial District Court, Clark County, Nevada on February 10, 2012, concerning real property located at 2912 Hot Cider Avenue, North Las Vegas, Nevada 89031 (the “Property”). In connection with the action, Toromanova filed a Notice of Lis Pendens, which Toromanova also recorded with the Clark County Recorder on February 10, 2012, as Instrument No. 201202100002038.<sup>1</sup> Wells Fargo removed the action to this Court and subsequently responded to the Complaint by filing a Motion to Dismiss and to Expunge Lis Pendens, which defendant National Default Servicing Corporation (“NDSC”) joined. On June 25, 2012, this Court entered an order dismissing Toromanova’s claims with prejudice as to Wells Fargo, and with leave to amend her third and fourth causes of action as against NDSC.<sup>2</sup> Because the Court granted Toromanova leave to amend two causes of action as to NDSC, the Court declined to expunge the *lis pendens* at that time.<sup>3</sup> Toromanova then filed an amended complaint purporting to join new defendants to the action and alleging new causes of action against all parties, including Wells Fargo. Consequently, Wells Fargo again filed a motion to dismiss (Doc. #23). In addition, NDSC filed a Motion to Strike Plaintiff’s Amended Complaint and to Dismiss Case (Doc. # 28). On March

<sup>1</sup> See Notice of Lis Pendens, attached hereto as Exhibit 1.

<sup>2</sup> (Doc. # 21)

<sup>3</sup> See *id.* at 11, n. 5.

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28, 2013, this Court entered an order dismissing Toromanova's claims with prejudice and directing the Clerk of the Court to enter judgment in favor of Wells Fargo and NDSC.<sup>4</sup>

Under NRS 14.010, "[i]n an action . . . affecting the title or possession of real property, the plaintiff, at the time of filing the complaint . . . shall record with the recorder of the county in which the property, or some part thereof, is situated, a notice of pendency of the action . . . ."

"The purpose of recording the *lis pendens* is to give 'constructive notice to a purchaser or encumbrancer of the property affected thereby' that the title to the property is disputed."<sup>5</sup> When such an action is dismissed, however, the *lis pendens* must be cancelled.<sup>6</sup> Here, the Court entered an order dismissing Toromanova's claims with prejudice.<sup>7</sup> Accordingly, there is no longer an action affecting the title or possession of the Property. Therefore, Wells Fargo respectfully requests that the Court enter an order expunging the *lis pendens* Toromanova recorded against the Property in connection with this action on February 10, 2012, as Instrument No. 201202100002038.

DATED this 3rd day of April 2013.

DAVID J. MERRILL, P.C.

**ORDER**

**IT IS SO ORDERED this 23rd day of October, 2013.**

  
\_\_\_\_\_  
**Gloria M. Navarro**  
**United States District Judge**

By:



\_\_\_\_\_  
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<sup>4</sup> (Doc. # 39).

<sup>5</sup> See *Coury v. Tran*, 111 Nev. 652, 655, 895 P.2d 650, 652 (1995) (quoting NRS 14.010(3)).

<sup>6</sup> See, e.g., *Johnson v. Truckee River Highlands HOA*, 2010 WL 4974869, \*5 (D. Nev. Nov. 29, 2010) ("[B]ecause the case is dismissed there is no longer an action pending affecting the title or possession of the property"); *Rivera v. Nat'l Default Serv. Corp.*, 2012 WL 2789015, \*4 (D. Nev. Jul. 6, 2012); *Madrigal v. ReconTrust Co., N.A.*, 2012 WL 2047992, \*4 (D. Nev. Jun. 6, 2012).

<sup>7</sup> See generally Order (Mar. 28, 2013) (Doc. #39).

## **EXHIBIT 1**

Inst #: 201202100002038

Fees: \$19.00

N/C Fee: \$0.00

02/10/2012 02:32:22 PM

Receipt #: 1063401

Requestor:

DIMITRITZA TOROMANOVA

Recorded By: SCA Pgs: 3

DEBBIE CONWAY

CLARK COUNTY RECORDER

3

**RECORDING COVER PAGE**

Must be typed or printed clearly in black ink only.

APN# 124-32-415-039  
11 digit Assessor's Parcel Number may be obtained at:  
<http://redrock.co.clark.nv.us/assrealprop/owner.aspx>

**TITLE OF DOCUMENT (DO NOT Abbreviate)**

NOTICE OF LIS PENDENS

Title of the Document on cover page must be **EXACTLY** as it appears on the first page of the document to be recorded.

Recording requested by:

DIMITRITZA TOROMANOVA

Return to:

Name

Dimit Toromanova

Address

Po Box 19153

City/State/Zip

LAS VEGAS, NV, 89132

This page provides additional information required by NRS 111.312 Sections 1-2.

An additional recording fee of \$1.00 will apply.

To print this document properly—do not use page scaling.

P:\Recorder\Frms 12\_2010

FILED

FEB 10 1 43 PM '12

*[Signature]*  
CLERK OF THE COURT

1 Dimitritza Toromanova  
2 2912 Hot Cider Av.  
3 N.Las Vegas, NV 89031  
4 CLAIMANT

5 **DISTRICT COURT**  
6 **CLARK COUNTY OF NEVADA**

7 Dimitritza Toromanova )

Case no. A-12-656295-C

8 )  
9 Plaintiff, )

NOTICE OF LIS PENDENS

10 )  
11 vs. )

12 WELLS FARGO, N.A.; WACHOVIA )

13 MORTGAGE, FSB; NATIONAL )

14 DEFAULT SERVICING )

CORPORATION et al; and DOES 1-10, )

15 )  
16 Defendants )  
17 )  
18 )  
19 )  
20 )  
21 )

22  
23 You are hereby notified that on the 10th of February, 2012, suit was instituted  
24 by the undersigned in the District Court , Clark County, Nevada Case No.

25 The following described real estate property situated in Clark County Nevada, is  
26 involved in said suit to wit: PARCEL NO. 124-32-415-039

27 AT 2912 HOT CIDER AV, N.Las Vegas, NV, 89031  
28

1 The nature of the suit is, to acquire unencumbered Quiet Title in her name, that all monies  
 2 fraudulently collected returned per law, and all fines for violations be paid, to Plaintiff.

3  
 4 **CASE LAW**

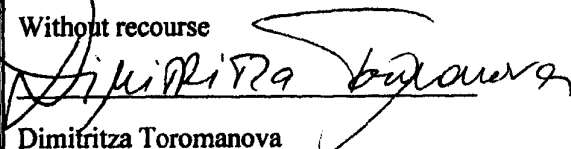
5 **Commonwealth of Massachusetts the Trial Court Department Memorandum and order on**  
 6 **the Plaintiffs' Motions to Vacate Judgment U.S. BANK NATIONAL ASSOICATION V**  
 7 **Antonio Ibanez case no. 08 MISC 384283 (KCL) and WELLS FARGO BANK**  
 8 **V. Mark A Larace and Tammy L. Larace Case no. 08 MISC 386744 KCL**

9 *To accept the plaintiffs' arguments is to allow them to take someone's home without any*  
 10 *demonstrable right to do so, based upon the assumption that they ultimately will be able to*  
 11 *show that they have that right and the further assumption that potential bidders will be*  
 12 *undeterred by the lack of a demonstrable legal foundation for the sale and will nonetheless bid*  
 13 *full value in the expectation that that foundation will ultimately be produced, even if it takes a*  
 14 *year or more. The law recognizes the troubling nature of these assumptions, the harm caused*  
 15 *if those assumptions proved erroneous, and commands otherwise. For the foregoing reasons,*  
 16 *the plaintiffs' motions to vacate the Judgment in these cases are DENIED SO ORDERED BY*  
 17 *THE COURT (Long, J.) Dated 14 October 2009*

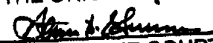
18 WITNESS MY SIGNATURE this the 10<sup>th</sup> day of FEB, 2012

19 Respectfully Submitted,

20 Without recourse

21   
 22 Dimitritza Toromanova

23  
 24  
 25  
 26  
 27  
 28  
 CERTIFIED COPY  
 DOCUMENT ATTACHED IS A  
 TRUE AND CORRECT COPY  
 OF THE ORIGINAL ON FILE

  
 CLERK OF THE COURT

FEB 10 2012